

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MATTHEW SILVA,

Plaintiff,

v.

KING COUNTY, et al.,

Defendants.

CASE NO. C04-1484 JCC-MAT

ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge Mary Alice Theiler (Dkt. No. 302) on Defendants’ motion for summary judgment (Dkt. No. 284) and various filings by Plaintiff since the R&R was issued (Dkt. Nos. 305, 307, 309). Having reviewed the materials and the record and determined that oral argument is not necessary, the Court hereby finds and rules as follows:

On May 22, 2006, Defendants moved for summary judgment. Plaintiff never filed an opposition thereto. Magistrate Judge Theiler’s R&R was posted on September 29, 2006, and the instructions to Plaintiff were that he needed to file any objections to the R&R within twenty-one days and that if no objections were filed by such date, the matter would be ripe for this Court’s review on October 27, 2006. On October 30, 2006, Plaintiff filed a request for extension of the deadline by which he needed to file his objections (Dkt. No. 305), which this Court granted (Dkt. No. 306), giving Plaintiff an additional thirty

1 days to file objections. On November 20, 2006, Plaintiff filed a second request for extension of the
2 deadline by which he needed to file his objections (Dkt. No. 307), which, again, this Court granted (Dkt.
3 No. 308), giving Plaintiff another thirty days. The Court noted, however, that the new deadline of
4 December 20, 2006 would not be extended again. Plaintiff never filed any objections. Instead, on
5 December 12, 2006, Plaintiff filed another letter (Dkt. No. 309), this time asking for various relief. The
6 Court now turns to this request.

7 Plaintiff first details his allegations that his objections and exhibits have been stolen by Arizona
8 prison officials and requests a “writ of mandamus” to various Washington state officials regarding this
9 alleged theft and interference with his legal access. Plaintiff’s second request is for “default judgment”
10 against Defendants in this matter. This submittal totals fifty-nine pages.

11 First, while the instant lawsuit is about Plaintiff’s allegations of constitutionally inadequate legal
12 access at the King County Regional Justice Center in Kent, Washington, this alleged conduct occurred
13 during his incarceration in Arizona. Accordingly, Plaintiff’s instant allegations of obstruction of access to
14 a law library or to his legal materials are not within the scope of the instant lawsuit or the R&R at issue
15 here. Plaintiff’s allegations might possibly constitute grounds for a new and separate § 1983 lawsuit, but
16 they do not address the issues before this Court. Accordingly, Plaintiff’s request for a “writ of
17 mandamus” is misplaced.

18 Second, as to Plaintiff’s request for default judgment, the Court notes that it is *Plaintiff* who has
19 failed to file briefs in this lawsuit or otherwise engage in the litigation when called upon to do so. Plaintiff
20 did not oppose Defendants’ summary judgment motion. Accordingly, because Plaintiff did not brief the
21 summary judgment issues before Magistrate Judge Theiler, she prepared the R&R without his input.
22 Now, Plaintiff has failed to file objections to the R&R. In all of the pages submitted since the R&R was
23 posted, Plaintiff has failed to address it on its merits. Plaintiff’s most recent lengthy submittal refers to
24 the “objections” documents in the abstract but does not go into the substance of the arguments that
25 Plaintiff says he wanted to present to the Court or describe the content or relevance of the allegedly

1 stolen exhibits. Rather than make an effort to address issues germane to the R&R and the underlying
2 summary judgment motion, Plaintiff has raised new claims unrelated to this lawsuit and sought relief
3 outside the scope of the issues now before the Court. Accordingly, Plaintiff's request for a "default
4 judgment" is DENIED.

5 Third, to the extent that Plaintiff's most recent filing should be construed as a further request for
6 an extension of the deadline by which to file objections to the R&R, it is DENIED. Upon granting the
7 last extension, the Court cautioned Plaintiff that no further extensions would be granted. Plaintiff has
8 given no justification for his failure to oppose the original summary judgment motion, nor for his failure
9 to file objections within the sixty-day extension period he was given. Moreover, Plaintiff has failed to
10 explain why he has filed no objections on the merits in the approximately four months since the R&R was
11 posted, but nevertheless has managed to prepare and file with the Court over sixty pages on unrelated
12 issues. Accordingly, the Court sees no reason to amend its prior ruling that no further extensions would
13 be granted.

14 Finally, the Court has reviewed Plaintiff's civil rights complaint, Defendants' motion for summary
15 judgment, the R&R, and the remaining record. The Court agrees with the reasoning in the R&R. For the
16 foregoing reasons:

17 (1) The Court ADOPTS the Report and Recommendation of Magistrate Judge Mary Alice
18 Theiler;

19 (2) Defendants' motion for summary judgment is GRANTED and this action is DISMISSED
20 with prejudice; and

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(3) The Clerk is directed to CLOSE this case and to send copies of this Order to Plaintiff, to counsel for Defendants, and to the Honorable Mary Alice Theiler.

SO ORDERED this 2nd day of February, 2007.

A handwritten signature in black ink, appearing to read "John C. Coughenour", written over a horizontal line.

John C. Coughenour

United States District Judge